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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.693 OF 2011
WITH
INCOME TAX APPEAL (L) NO.1688 OF 2006

AND

NOTICE OF MOTION NO.695 OF 2011
WITH
INCOME TAX APPEAL (L) NO.1682 OF 2006

AND

NOTICE OF MOTION NO.698 OF 2011
WITH
INCOME TAX APPEAL (L) NO.1692 OF 2006

AND

NOTICE OF MOTION NO.699 OF 2011
WITH
INCOME TAX APPEAL (L) NO.1685 OF 2006

The Director of Income Tax (International Taxation) ..Appellant.

Versus

Reliance Industries Limited ..Respondent.

Ms.Suchitra Kamble i/by Mr.Suresh Kumar for the appellant.
Mr.J.D. Mistri, Senior Counsel with Mr.P.C. Tripathi i/by Mr.Raj Darak for the respondent.

CORAM : J.P. Devadhar &
Smt.R.P. Sondurbaldota, JJ.

DATE : 20th June, 2011.

P.C. :

1. All these appeals were filed by the Revenue to challenge the decision of the Income Tax Appellate Tribunal, whereby the appeals filed by the assessee against the decision of the adjudicating authority under Section 195 of the Income Tax Act, 1961 have been allowed.

2. The assessee had taken loans from non-resident companies for various projects in India. According to the assessee, the interest payment on these loans taken by the assessee were exempt under Section 10(15)(iv)(f) of the Income Tax Act, 1961. The assessing officer rejected the applications filed by the assessee under Section 195 of the Income Tax Act, 1961 on the ground that the said exemptions have been withdrawn by the Central Government. The Commissioner of Income Tax (Appeals) upheld the order of the assessing officer. The Income Tax Appellate Tribunal following its decision in the case of assessee's own case held that while paying interest to the non-resident, the assessee need not deduct tax at source. Challenging these orders, these appeals have been filed.

3. As the office-objections were not removed, all these appeals were dismissed pursuant to the order passed by the Prothonotary & Senior Master, High Court, Bombay.

4. These Notices of Motions have been taken out after the delay of more than 1200 days. The reasons given for the delay in the affidavits in support of the Notices of Motion are not convincing . Moreover, in the light of the order passed by the Income Tax Appellate Tribunal, remittances to the non-resident companies have already been made.

5. In these circumstances, condoning the inordinate delay of more than 1200 days would cause serious prejudice to the assessee. If the Revenue has suffered on account of total callousness on the part of the Income Tax Officer, it is for the Revenue to take appropriate action against the concerned Officer. We see no reason to condone the delay.

6. All the Notices of Motion are accordingly dismissed with no order as to costs. Appeal papers be consigned to the Record Department.

(Smt.R.P. Sondurbaldota, J.) (J.P. Devadhar, J.)